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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,697	08/07/2001	Barry D. Olson	CN-0102	1564

23906 7590 03/02/2005

E I DU PONT DE NEMOURS AND COMPANY  
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WILMINGTON, DE 19805

EXAMINER

SIMONE, CATHERINE A

ART UNIT PAPER NUMBER

1772

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/923,697

Applicant(s)

OLSON ET AL.

Examiner

Catherine Simone

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/29/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Withdrawn Rejections***

1. The drawing requirement of record in the Office Action mailed 8/6/03, Page 2, Paragraph #2 has been withdrawn due to the Applicants amendment filed 3/15/04.
2. The 35 U.S.C. 112 rejection of claims 1-9 and 12 of record in the Office Action mailed 8/6/03, Pages 2-3, Paragraph #4 has been withdrawn due to the Applicants amendment filed 3/15/04.
3. The 35 U.S.C. 102 rejection of claims 1, 2, 4, 6-9 and 12 as anticipated by Stecker of record in the Office Action mailed 8/6/03, Pages 3-4, Paragraph #6 has been withdrawn due to the Applicants amendment filed 3/15/04.
4. The 35 U.S.C. 103 rejection of claims 3 and 5 over Stecker of record in the Office Action mailed 8/6/03, Pages 4-5, Paragraph #8 has been withdrawn due to the Applicants amendment filed 3/15/04.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "the molding compositions". There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. **Claims 1, 2, 4-6 and 12** are rejected under 35 U.S.C. 102(b) as being anticipated by Giertz et al. (WO 97/31776).

Giertz et al. discloses a decorative material comprising geometric patterns on a surface thereof (see Fig. 2) wherein the geometric patterns are formed from at least two contrasting thermoset compositions (see page 2, lines 23-26) wherein the geometric patterns are three-dimensional (see page 3, lines 5-6) comprising at least one geometric shape divided into individual discrete portions resulting in cross sections of the one geometric shape having varying surface appearances with the geometric patterns extending inwardly from a surface of the material (see Fig. 2; also see page 4, lines 16-20), and wherein the visual appearance of the geometric patterns vary due to different cross sections of the one geometric shape being exposed on the surface of the material (see Fig. 2; also see page 2, lines 7-20). Regarding claim 2, the geometric patterns extend throughout interior portions of the decorative material (see page 5, lines 9-16). Regarding claims 4 and 5, the geometric patterns are other than in the form of stripes such as swirls (see Figures 2 and 3). Regarding claim 6, the decorative material contains

additional thermoset composition which is not present in the geometric patterns (see page 4, lines 10-11). Regarding claim 12, the individual discrete portions of the one geometric shape are fused (see page 2, lines 10-30).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over Giertz et al. (WO 97/31776) in view of Miller (US 3,663,493).

Giertz et al. teaches the decorative material as shown above except for the geometric patterns comprising stripes. Miller teaches that it is old and well-known in the art to have a striped pattern formed from a thermoset composition (see col. 18, line 38) for the purpose of providing a very natural marbleizing effect to the sheet product. Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the geometric patterns formed from the thermoset compositions in Giertz et al. to comprise a striped pattern as suggested by Miller in order to provide a very natural marbleizing effect to the sheet product.

11. **Claims 7-9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Giertz et al. (WO 97/31776) in view of Edwards (US 5,073,587).

Giertz et al. teaches the decorative material as shown above except for at least one of the thermoset compositions comprising an acrylic and a filler comprising alumina trihydrate for imparting flame retardation. Edwards teaches that it is old and well-known in the art to have a thermoset composition comprising an acrylic (see col. 7, line 6) and alumina trihydrate (see col. 7, line 16) for the purpose of providing improved properties as to weatherability, heat and solvent resistance, impact strength and which has an aesthetically pleasing appearance similar to a polished slab of granite or similar material (see col. 2, lines 14-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified at least one of the thermoset compositions in Giertz et al. to comprise an acrylic and alumina trihydrate as suggested by Edwards in order to provide the decorative material with improved properties as to weatherability, heat and solvent resistance, impact strength and has an aesthetically pleasing appearance similar to a polished slab of granite or similar material.

#### ***Response to Arguments***


12. Applicant's arguments with respect to claims 1-9 and 12 have been considered but are moot in view of the new ground(s) of rejection.


#### ***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (571)272-1501. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Catherine A. Simone  
Examiner  
Art Unit 1772  
February 9, 2005

  
1772 2/16/05